

MONTANA LEGISLATIVE HISTORY

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Chapter 510 ~~19~~ 2003

Bill H _____ S 275 Original bill & history 1 C

H. Committee on BUSINESS & LABOR

Hearing Date(s) 3/19 X C

3/26 X C

_____ C

_____ C

Date Out _____ C

S. Committee on BUSINESS & LABOR

Hearing Date(s) 2/12 X C

Exec. ACTION 2/18 X C

_____ C

_____ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

Bill Draft Number: LC1202**Bill Type - Number:** SB 275**Short Title:** Revise laws on collection of judgments and fines**Primary Sponsor:** Rick Laible

Bill Actions - Current Bill Progress: Became Law**Bill Action Count:** 59

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/25/2003			
(S) Signed by Governor	04/25/2003			
(H) Signed by Speaker	04/17/2003			
(S) Transmitted to Governor	04/17/2003			
(S) Signed by President	04/16/2003			
(S) Returned from Enrolling	04/15/2003			
(C) Sent to Printing	04/14/2003			
(S) Sent to Enrolling	04/11/2003			
(S) 3rd Reading Passed as Amended by House	04/11/2003	45	5	
(S) Scheduled for 3rd Reading	04/11/2003			
(S) 2nd Reading House Amendments Concurred on Voice Vote	04/10/2003	49	0	
(S) Scheduled for 2nd Reading	04/10/2003			
(S) Scheduled for 2nd Reading	04/09/2003			
(H) Returned to Senate with Amendments	04/04/2003			
(H) 3rd Reading Concurred	04/04/2003	93	7	
(H) Scheduled for 3rd Reading	04/04/2003			
(H) 2nd Reading Concurred	04/03/2003	93	6	
(H) Scheduled for 2nd Reading	04/03/2003			
(S) Revised Fiscal Note Requested	03/28/2003			
(C) Sent to Printing	03/27/2003			
(H) Committee Report--Bill Concurred as Amended	03/26/2003			(H) Business and Labor
(H) Committee Executive Action--Bill Concurred as Amended	03/26/2003	14	4	(H) Business and Labor
(H) Hearing	03/19/2003			(H) Business and Labor
(H) Referred to Committee	03/07/2003			(H) Business and Labor
(H) First Reading	03/07/2003			
(S) Transmitted to House	02/22/2003			

(S) 3rd Reading Passed	02/22/2003	31	19
(S) Scheduled for 3rd Reading	02/22/2003		
(S) 2nd Reading Passed	02/21/2003	31	19
(S) Scheduled for 2nd Reading	02/21/2003		
(S) Scheduled for 2nd Reading	02/20/2003		
(S) Revised Fiscal Note Requested	02/19/2003		
(C) Sent to Printing	02/19/2003		
(S) Committee Report--Bill Passed as Amended	02/19/2003		(S) Business and Labor
(S) Committee Executive Action--Bill Passed as Amended	02/19/2003	7	4 (S) Business and Labor
(S) Hearing	02/12/2003		(S) Business and Labor
(S) Hearing Canceled	02/05/2003		(S) Business and Labor
(S) Fiscal Note Printed	02/03/2003		
(S) Fiscal Note Signed	02/01/2003		
(S) Fiscal Note Received	02/01/2003		
(S) Hearing Canceled	01/30/2003		(S) Local Government
(S) Rereferred to Committee	01/29/2003		(S) Business and Labor
(C) Introduced Bill Text Available Electronically	01/27/2003		
(S) Referred to Committee	01/27/2003		(S) Local Government
(S) First Reading	01/27/2003		
(S) Fiscal Note Requested	01/27/2003		
(S) Introduced	01/27/2003		
(C) Draft Delivered to Requester	01/23/2003		
(C) Draft Ready for Delivery	01/23/2003		
(C) Draft in Assembly/Executive Director Review	01/22/2003		
(C) Draft in Final Drafter Review	01/21/2003		
(C) Bill Draft Text Available Electronically	01/20/2003		
(C) Draft in Input/Proofing	01/20/2003		
(C) Draft to Drafter - Edit Review [CMD]	01/18/2003		
(C) Draft in Edit	01/18/2003		
(C) Draft in Legal Review	01/17/2003		
(C) Draft to Requester for Review	01/14/2003		
(C) Draft On Hold	12/20/2002		
(C) Draft Request Received	12/03/2002		

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Middle Initial
Requester	Laible	Rick	
Drafter	Campbell	Bart	
Primary Sponsor	Laible	Rick	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Civil Procedure		Simple	CIV
Credit Transactions (see also: Financial Institutions)		Simple	CRED

Additional Bill Information

Probable Fiscal Note: Yes
Preintroduction Required: N
Session Law Ch. Number: 510
DEADLINE
Category: General Bills
Transmittal Date: 02/28/2003
Return (with 2nd house amendments) Date: 04/05/2003

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-03	

INTRODUCED BY

(Primary Sponsor)

BILL NO.

275

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS FOR THE COLLECTION OF JUDGMENTS AND FINES; REQUIRING THAT COLLECTION FEES BE ADDED TO THE AMOUNT OF THE JUDGMENT OR FINE BEING COLLECTED; INCREASING THE LENGTH OF A JUDGMENT LIEN FILED IN ANOTHER COUNTY AND A JUDGMENT LIEN RENDERED IN FEDERAL COURT FROM 6 YEARS TO 10 YEARS; REQUIRING EARNINGS WITHHELD FROM A JUDGMENT DEBTOR TO BE REMITTED TO THE SHERIFF OR LEVYING OFFICER ON THE DAY THE EARNINGS ARE WITHHELD; PROVIDING THAT FEES ASSESSED IN A MUNICIPAL COURT MAY NOT EXCEED THOSE FEES ASSESSED BY A JUSTICE'S COURT; EXPANDING THE LIABILITY FOR ISSUING A BAD CHECK TO INCLUDE A CONVERTED CHECK AND AN ELECTRONIC FUND TRANSFER; PROVIDING THAT GRANTS OF ASSISTANCE ARE SUBJECT TO LEVY OR OTHER LEGAL PROCEEDINGS WITH RESPECT TO OBLIGATIONS TO PROVIDERS OF SERVICES RENDERED TO OR FOR A NEEDY PERSON; AND AMENDING SECTIONS 3-10-601, 25-9-302, 25-9-303, 25-13-402, 25-30-102, 27-1-717, 46-17-303, 46-19-102, AND 53-2-607, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-10-601, MCA, is amended to read:

"3-10-601. Collection and disposition of fines, penalties, forfeitures, and fees. (1) Each justice's court shall collect the fees prescribed by law for justices' courts and shall pay them into the county treasury of the county in which the justice of the peace holds office, on or before the 10th day of each month, to be credited to the general fund of the county.

(2) Except as provided in subsection (4), all fines, penalties, and forfeitures that are required to be imposed, collected, or paid in a justice's court must, for each calendar month, be paid by the justice's court on or before the 5th day of the following month to the treasurer of the county in which the justice's court is situated, except that they may be distributed as provided in 44-12-206 if imposed, collected, or paid for a violation of Title 45, chapter 9 or 10.

(3) Except as provided in 46-18-236(7), the county treasurer shall, as provided in 15-1-504, distribute money received under subsection (2) as follows:

(a) 50% to the department of revenue for deposit in the state general fund; and

(b) 50% to the county general fund.

(4) (a) The justice's court may contract with a private person or entity for the collection of any final judgment that requires a payment to the justice's court.

(b) In the event that a private person or entity is retained to collect a judgment, the justice's court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute a suit or other lawful collection procedure and other postjudgment remedies in its own name.

(c) The justice's court may pay the private person or entity a reasonable fee for collecting the judgment. The fee incurred by the justice's court must be added to the judgment amount.

Section 2. Section 25-9-302, MCA, is amended to read:

"25-9-302. Filing of transcript of docket in another county -- lien -- expiration. (1) A transcript of the original docket, certified by the clerk, may be filed with the district court clerk of any other county. From the time of the filing, the judgment becomes a lien upon all real property of the judgment debtor that is not exempt from execution in that county and that is either owned by the judgment debtor at the time or afterward acquired by the judgment debtor before the lien expires. Except as provided in subsection (2), the lien continues for 6 10 years unless the judgment is previously satisfied.

(2) When the judgment is for the payment of child support, the lien continues for 10 years from the termination of the support obligation or 10 years from entry of a lump-sum judgment or order for support arrears, whichever is later, unless the judgment is previously satisfied."

Section 3. Section 25-9-303, MCA, is amended to read:

"25-9-303. Filing of transcript of docket of federal court -- lien -- expiration. (1) A transcript of the original docket of a judgment that is rendered in the circuit or district court of the United States, ninth circuit, district of Montana, and that is certified by the clerk of court may be filed with the district court clerk of any county. From the time of the filing, the judgment becomes a lien upon all real property of the judgment debtor that is not exempt from execution in the county and that is either owned by the judgment debtor at the time or afterward acquired by the judgment debtor before the lien expires. Except as provided in subsection (2), the lien continues for 6 10 years unless the judgment is previously satisfied.

(2) When the judgment is for the payment of child support, the lien continues for 10 years from the

1 termination of the support obligation or 10 years from entry of a lump-sum judgment or order for support arrears,
2 whichever is later, unless the judgment is previously satisfied."

3
4 **Section 4.** Section 25-13-402, MCA, is amended to read:

5 **"25-13-402. How writ executed.** (1) (a) The sheriff or levying officer shall, subject to subsection (6),
6 execute the writ against the property of the judgment debtor ~~no~~ not later than 120 days after receipt of the writ
7 by:

8 (i) levying on a sufficient amount of property, if there is sufficient property;

9 (ii) collecting or selling the things in action; and

10 (iii) selling the other property and paying to the judgment creditor or the judgment creditor's attorney as
11 much of the proceeds as will satisfy the judgment.

12 (b) (i) If the third party is a corporation or other legal entity, service must be accomplished by personally
13 serving the writ upon an officer or supervising employee of the entity or other department or person designated
14 by the third party or by mail, as provided in subsection (1)(b)(ii).

15 (ii) Service by mail upon a corporation or other legal entity must be consented to in writing by the
16 corporation or other legal entity and may be made by mailing a copy of the writ to an officer, supervising
17 employee of the third party, or other department or person designated by the third party. If service is by mail, it
18 must be accompanied by a notice that the officer or employee receiving the writ shall forward the writ to the
19 person responsible for processing the levy for the third party if the officer or employee initially receiving the writ
20 is not the proper party to process the levy. The writ ~~will~~ must be considered served on the date and time that the
21 writ is received by the officer, supervising employee, or designee of the third party, but ~~no~~ not later than 5
22 business days after it is mailed.

23 (c) A levy under subsection (1)(b) is effective when the writ is served by personal service or by mail,
24 as provided in subsection (1)(b)(ii).

25 (2) Any proceeds in excess of the judgment and accruing costs must be returned to the judgment debtor
26 unless otherwise directed by the judgment or order of the court. When the sheriff or levying officer determines
27 that there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs,
28 the sheriff or levying officer shall levy only on the part of the property that the judgment debtor may indicate if
29 the property indicated is sufficient to satisfy the judgment and costs.

30 (3) With respect to property held by a third party, including but not limited to banks, credit unions, and

1 other financial institutions and those parties identified in 25-13-306, the third party shall respond to the levy
2 based on the assets held at the time of levy. Response must be made within 10 business days following the date
3 of the levy by delivering the assets or payments to the sheriff or levying officer.

4 (4) Except for perishable property, the sheriff or levying officer shall hold any property or money levied
5 upon for 10 days, excluding weekends and holidays, following notification of execution upon the judgment
6 debtor. After that time, the sheriff or levying officer may sell the property and pay the money to the judgment
7 creditor.

8 (5) If the first levy is not sufficient to satisfy the writ, the sheriff or levying officer may levy, from time to
9 time and as often as necessary, within the 120 days until the judgment is satisfied or the writ expires.

10 (6) (a) A levy upon the earnings of a judgment debtor continues in effect for 120 days or until the
11 judgment is satisfied, whichever occurs first. The levy applies to earnings due on or after the date of service
12 through the expiration of the writ. Earnings withheld from a judgment debtor must be remitted to the sheriff or
13 levying officer on the day the earnings are withheld.

14 (b) The sheriff or levying officer shall clearly mark the expiration date upon all served copies of the writ
15 and notice.

16 (c) Except as provided in subsection (7), multiple levies served under this subsection (6) have priority
17 according to the date and time of service upon the employer.

18 (d) The return of service on a levy upon the earnings of a judgment debtor is returned in the same
19 manner provided for in 25-13-404.

20 (7) ~~Nothing in this~~ This section is not intended to supersede any state or federal laws regarding priority
21 that must be given to certain levies and executions."

22
23 **Section 5.** Section 25-30-102, MCA, is amended to read:

24 **"25-30-102. Fees and fines -- collection.** (1) (a) The fees and fines in municipal court must be the
25 same as the fees and fines provided by law or ordinance, and except as provided in subsection (2), all fees and
26 fines collected by the court must be paid into the city treasury.

27 (b) Fees assessed in municipal court may not exceed the fees authorized to be paid to a justice's court
28 in 25-31-112.

29 (2) (a) The municipal court may contract with a private person or entity for the collection of any final
30 judgment that requires a payment to the municipal court. The fee incurred by the municipal court must be added

1 to the judgment.

2 (b) In the event that a private person or entity is retained to collect a judgment, the municipal court may
3 assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute
4 suit or other lawful collection procedure and other postjudgment remedies in its own name.

5 (c) The municipal court, after deducting the charges provided for in 46-18-236, may pay the private
6 person or entity a reasonable fee for collecting the judgment."

7

8 **Section 6.** Section 27-1-717, MCA, is amended to read:

9 **"27-1-717. Issuing a bad check, draft, converted check, electronic funds transfer, or order or**

10 **stopping payment -- civil liability.** (1) A person who issues a check, draft, converted check, electronic funds
11 transfer, or order for the payment of money is liable for a service charge, as provided in subsection (2), or for
12 damages in a civil action, as provided in subsection (3), to the payee to whom the check, draft, converted check,
13 electronic funds transfer, or order is issued, or the payee's assignee, if the check, draft, converted check,
14 electronic funds transfer, or order is:

15 (a) dishonored for lack of funds or credit or because the issuer ~~has no~~ does not have an account with
16 the drawee; or

17 (b) issued in partial or complete fulfillment of a valid and legally binding obligation and the issuer stops
18 payment with the intent to fraudulently defeat a possessory lien or otherwise defraud the payee of the check.

19 (2) The person who issues the check, draft, converted check, electronic funds transfer, or order is liable
20 to the payee or the payee's assignee for a service charge in a reasonable amount, not greater than \$30. The
21 payee or the payee's assignee may waive the service charge. Demand for the service charge must be made
22 in writing by the payee or the payee's assignee and mailed to the address shown on the check, draft, converted
23 check, or order or to the issuer's last-known address. The demand must state that the issuer is required to pay
24 the value of the check, draft, converted check, electronic funds transfer, or order and service charge and must
25 state the service charge provided for in this section.

26 (3) The amount of damages awarded pursuant to subsection (1) must be an amount equal to the service
27 charge plus the greater of \$100 or three times the amount for which the check, draft, converted check, electronic
28 funds transfer, or order was issued. However, damages may not exceed the value of the check, draft, converted
29 check, electronic funds transfer, or order by more than \$500.

30 (4) The remedy provided by subsection (3) is available only if:

(a) the payee or the payee's assignee has made the written demand required in subsection (2) not less than 10 days before commencing the action; and

(b) the issuer has failed to tender an amount of money equal to the amount demanded under subsection (2) prior to the commencement of the action.

(5) The remedy provided by this section:

(a) may be pursued notwithstanding the provisions of 27-1-312;

(b) may be pursued whether or not a criminal penalty is sought under 45-6-316 or any other statute providing a criminal penalty; and

(c) does not affect the obligation of the issuer provided for in 30-3-423 to pay the amount of the draft. However, in case of any inconsistency with the provisions of Title 30, chapter 3, the provisions of this section apply.

(6) Upon introduction by the payee or the payee's assignee of evidence sufficient to establish the fact of mailing as required under subsection (2), the failure to receive the written demand is not a defense to the action allowed under subsection (3).

(7) This section applies to all checks, drafts, converted checks, electronic funds transfers, and orders, including those electronically presented for payment.

(8) Making partial payments of amounts owed under this section or entering into an agreement for paying in whole or in part amounts owed under this section does not waive any right that the payee or the payee's assignee may have under this section. Once a demand required under this section is made, the demand is not required to be repeated upon partial payment of amounts owed under this section."

Section 7. Section 46-17-303, MCA, is amended to read:

"46-17-303. Deposit of fines -- collection. (1) Except as provided in subsection (2), all fines imposed and collected by ~~a city~~ the court must be paid to the appropriate treasurer of the county, city, or town, ~~as the case may be~~, within 30 days of receipt. The ~~city~~ judge shall file a copy of any receipt given for a collected fine with the appropriate county, city, or town clerk, ~~as the case may be~~.

(2) (a) The ~~city~~ court may contract with a private person or entity for the collection of any final judgment that requires a payment to the ~~city~~ court.

(b) In the event that a private person or entity is retained to collect a judgment, the ~~city~~ court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute suit

or other lawful collection procedure and other postjudgment remedies in its own name.

(c) The ~~city~~ court, after deducting the charges provided for in 46-18-236, may pay the private person or entity a reasonable fee for collecting the judgment. The fee incurred by the court must be added to the judgment amount.

(3) If the judgment is for a fine alone, execution may issue on the judgment for any unpaid interest accrued on the judgment, costs, and fees in collecting the fine as on a judgment in a civil case."

Section 8. Section 46-19-102, MCA, is amended to read:

"46-19-102. Execution of fine judgment. (1) If the judgment is for a fine alone, execution may issue on the judgment, any unpaid interest accrued on the judgment, and costs and fees incurred in collecting the judgment as on a judgment in a civil case.

(2) If the judgment is for a fine and imprisonment until the fine is paid, the defendant must be committed to the custody of the proper officer and detained and allowed a credit for each day of incarceration as provided in 46-18-403.

(3) (a) The court may contract with a private person or entity for the collection of any judgment.

(b) In the event that a private person or entity is retained to collect a judgment, the court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute suit or other lawful collection procedures and postjudgment remedies in the private person's or entity's own name.

(c) The court, after deducting the charges provided for in 46-18-236, may pay the private person or entity a reasonable fee for collecting the judgment. The fee incurred by the court must be added to the judgment amount."

Section 9. Section 53-2-607, MCA, is amended to read:

"53-2-607. Assistance not assignable or subject to legal process -- exceptions. (1) Except as otherwise provided in this title and in subsection (2), assistance granted under this title is not transferable or assignable at law or in equity and none of the money paid or payable under this title is subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law.

(2) Money paid or payable under this title is subject to execution, levy, attachment, garnishment, or other legal process to pay obligations of a person or entity that is receiving the money or is entitled to the money for services rendered for or to a needy person."

- END -

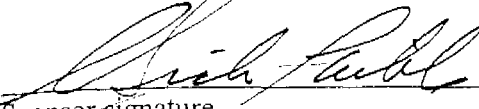
FISCAL NOTE

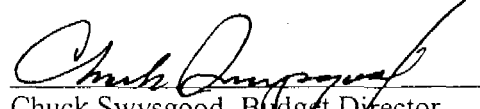
Bill #: SB0275

Title: Revise laws on collection of judgments and fines

Primary Sponsor: Laible, R

Status: As Introduced


Sponsor signature _____ Date _____


Chuck Swysgood, Budget Director _____ 2/1/05
Date _____

Fiscal Summary

	<u>FY 2004 Difference</u>	<u>FY 2005 Difference</u>
Expenditures:		
General Fund	\$0	\$0
Revenue:		
General Fund	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

- | | |
|---|--|
| ☒ Significant Local Gov. Impact | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts |
| ☐ Dedicated Revenue Form Attached | ☐ Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

1. Section 27-1-717, MCA, affects civil liability for issuing bad checks, etc., and has no fiscal impact on the Judicial Branch.
2. Section 53-2-607, MCA, allows for public assistance payments to be used to pay an execution, levy, attachment, garnishment or other legal process of a person or entity that is receiving the money. This may have a positive fiscal impact to the general fund due to collections under 3-10-601, MCA, but it is estimated that this impact would be minimal.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

This legislation allows the justice and lower courts to add collection fees to the judgment amounts. This will allow the counties to recoup the costs of collection. This legislation also increases the time period for liens to expire from six to 10 years. This function is handled by Clerks of Court and could impact workloads, record retention, etc. Section 25-30-102, MCA, impacts the fees that a municipal court may assess; they may add collection fees to the judgments. These changes could affect the amounts of fees and fines collected by municipal courts.

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN DALE MAHLUM**, on February 12, 2003 at
9 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Sam Kitzenberg (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddye McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion
are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 282, 1/27/2003; SB 275,
1/29/2003
Executive Action: SB 334; SB 198

{Tape: 1; Side: A}

percent. She also pointed out that injured workers don't always look injured.

HEARING ON SB 275

Sponsor: SENATOR RICK LAIBLE, SD 30, VICTOR

Proponents: Michael Moore, Missoula attorney; Jeff Cope, Montana Collectors Association; Kevin Mosier, Centron Services of Helena; Kelly Paulsen, owner of a collection agency; Bob Pyfer, Montana Credit Union Network

Opponents: None

Informational Witnesses:

Russell Cater, Department of Public Health and Human Services; Richard Rowe, State of Montana Levying Officer; Russ Hyatt, Department of Revenue

Opening Statement by Sponsor:

SEN. RICK LAIBLE, SD 30, VICTOR, said SB 275 is a good bill. He stated Sections 1, 5, 7, and 8 clarify that the court can assign fees, penalties, and fines and apply them into the collection, which is already authorized; however, the fee for the private entity service is added onto the fine. This allows the court to recover those costs without having to absorb them. In Sections 2 and 3 are additions to HB 496 from the last legislative session.

Section 4 establishes that the employer must remit garnishment funds to the sheriff or levying officer. SEN. LAIBLE distributed an amendment, EXHIBIT(bus31a02) (SB027501.aem), to the bill and went on to explain it.

{Tape: 2; Side: B}

Proponents' Testimony:

Michael Moore, attorney from Missoula, thanked SEN. LAIBLE for sponsoring the bill. He addressed Section 4, which will clarify that an employer must, in a timely fashion, remit garnished funds to the sheriff or levying officer. That, he said, is an important section to those who have to recover a judgment. In 1999, the legislature addressed the constitutionality of both the judgment levy statutes that were on the books at that time. In a 1998 Supreme Court case, the Montana Supreme Court found the statute unconstitutional. He served as a member of the Ad Hoc

Committee, which included members from the Attorney's General's Office, the Child Support Division, sheriffs and peace officers and numerous other organizations with one common goal, which was to insure that legislation passed that would meet due process requirements outlined in the Supreme Court case. A new Section 2513-211 was enacted as part of that bill. When funds are held, and if they are held up to 120 days, that clearly conflicts with what the legislation was meant to address. The idea is that the employee whose due process rights they are trying to protect receives timely notice. He said they simply wanted to mandate that, as an employer, you provide the funds to the sheriff or levying officer so that person can fulfill their statutory requirements for repayment. **Mr. Moore** then touched on Montana's bad check statute. He pointed out that the issue he was talking about does not affect the ability of the creditor to waive a claim for service charge. That provision is already in the statute. It allows the party who took the bad check to ask for no more than the check, if that's their desire. What was being clarified was that when the creditor or its assignee has sent notice to the bad check writer and has been contacted and has been willing to take payment arrangements, they could do so. If the person who wrote the bad check fails these payment arrangements, the creditor has not waived his right to pursue recovery through the courts. He went on to address the issue of levies on assistance to needy persons. These levies are not taking money from the needy person. The money is income to a service provider. They simply want those service providers to be treated like any other service provider who may be a judgment debtor. Their income is subject to levy and when that money is going to them as income, he wants to be able to attach it.

Jeff Cope, Montana Collectors Association, rose in support of the bill.

Kevin Mosier, Centron Services of Helena, appeared in support of SB 275.

Kelly Paulson, small business owner in Missoula, also asked to show his support of the bill.

Bob Pyfer, Montana Credit Union Network, said he reviewed the bill and found it does some very good things. He urged the committee's support of the bill.

Opponents' Testimony: None

Informational Witness Testimony:

Russell Cater, Department of Public Health and Human Services, offered any information the committee might have. He also voiced concern with Section 9 of the bill. He distributed amendments he had prepared for the bill, **EXHIBIT(bus31a03)** as well as a gray bill, **EXHIBIT(bus31a04)**.

Richard Rowe, State of Montana Levying Officer, stood ready to answer any questions the committee might have.

Russ Hyatt, Department of Revenue, Accounts Receivable and Collections, also offered any needed information.

Questions from Committee Members and Responses:

SEN. SHERM ANDERSON expressed his confusion about Section 9 and asked **SEN. LAIBLE** to explain it in layman terms. **SEN. LAIBLE** gave an example of an individual who has a day care operation and their clients are people who are on assistance. They get direct payment for that, but they, as a business, have a judgment against them from the court. What this bill says is that their money can be attached for payment. It has nothing to do with the person who is the beneficiary of the payments. This would be the third party and would be no different than if the money went to the individual having assistance and they wrote a check to the day care for services. Those funds could be attached. He clarified that just because a third party receives funding from the Department of Human Services, they are not exempt from those laws. If they have court fees or assessments, they are still liable for them. They can't go to the courts and say that all of this money comes from welfare, so you can receive any of it.

SEN. ANDERSON then asked **SEN. LAIBLE** if the debt itself was incurred by the day care, who said that would be the example. The debt would be incurred by the day care. If they have a judgment against them within the court, then those funds that they receive from the Department of Health and Human Services could be attached.

SEN. VICKI COCCHIARELLA asked to have that same question answered by some in the industry. **Mr. Moore** explained that either the day care as a business entity or the day care provider as an individual has had a judgment entered against them. The day care provider is the judgment debtor. Some of the income the day care provider receives is from the mother on welfare whose child the day care person provides daily care. The money that mother pays the day care provider can be levied to pay for a judgment against the day care provider. In essence, it's almost like a payroll levy.

SEN. DON RYAN thought they were dealing with other issues and one of them is that if the City Municipal Court in Great Falls grants an \$800 judgement and that person isn't paid, this bill would allow the city to contract with the collection agency for collection. **Mr. Moore** said he was correct. The fees can be set on a percentage basis. Currently, they can also be set at a flat rate of \$25 or \$50 per account.

{Tape: 3; Side: A}

SEN. MIKE SPRAGUE questioned **SEN. LAIBLE** as to why this bill was in the Business and Labor Committee. He replied it's because it is about people owing money and not paying that money and he thought this committee was one of the few committees within the legislature that could pull all components of the bill together.

SEN. LAIBLE was told by **SEN. KELLY GEBHARDT** that the requirement was in the bill for whoever withholds and pays the judgment, but he didn't have a mechanism in there for that employer to be reimbursed for doing that on child support payments that go to the courts. **SEN. LAIBLE** replied he didn't know if there was anything in the statute that would address that issue. In the loan business, he has had some garnishments. It is just part of the cost of doing business, but you are always allowed to charge an administrative fee. **SEN. GEBHARDT** expressed his view that, as he listened to testimony, that just because someone is on welfare, they don't have to pay a fine. He thought everyone should have to pay their fines. He didn't care if they are on welfare or had a million dollars in their hip pocket. **SEN. LAIBLE** explained that was not what this bill was saying. What it said is that someone who is a third person or third party to an arrangement, not the person receiving assistance, the only ones receiving the payment for that assistance.

SEN. GEBHARDT then referred his question to **Mr. Cater**, who gave an example that federal law indicates that if you are an employee, people can sue you and they can go after your wages, but there would be a certain minimum amount that is protected. In other words, he guessed the law was saying that there are certain minimum amounts that they want to leave with you so you can provide the basic necessities for you and your family. The same thing applies for those on assistant. He reiterated he was not saying the person on public assistance should not have to pay their debts. He was saying to keep that debt in place, but take it from something else that the person has, not the cash assistance provided for them.

SEN. ANDERSON confirmed with **Mr. Cater** that a recipient of assistance cannot be garnished. **Mr. Cater** answered they cannot be garnished for levy only with respect to money that our department pays to them. If they have a job or if they have any other monies, those are subject to garnishment.

SEN. ANDERSON addressed the confusing wording in the bill and asked **SEN. LAIBLE** if he had any difficulty with working on rewording it, which **SEN. LAIBLE** found acceptable.

{Tape: 3; Side: B}

Closing by Sponsor:

SEN. LAIBLE thought that on the issue of those people receiving assistance, either with the language in the bill now or with the assistance of **Mr. Cater's** proposed amendment, the question is who should pay the collection fee. Should the collection fee be paid by the county or the courts trying to get a judgment or should they be paid by the debtor, the one who owes the money? He asked for the committee's favorable vote on the bill.

HEARING ON SB 306

Sponsor: SENATOR DON RYAN, SD 22, GREAT FALLS

Proponents: James Bandy, Assistant Athletic Director for Compliance, University of Montana

Opponents: None

Informational Witnesses:
Mark Cadwallader, Department of Labor

Opening Statement by Sponsor:

SEN. DON RYAN, SD 22, GREAT FALLS, brought SB 306, an act creating a Uniform Athlete Agents Act. What this does is put into place a registry whereby people who wish to act with athlete agents in the state of Montana would comply with the law in the best interests of our universities and student athletes. It is something that doesn't occur a great deal in Montana, but this law and this bill is costing the state. Twenty-three states, possibly more, have enacted this type of legislation. Amendments were distributed for the bill, **EXHIBIT(bus31a05)** (SB030601.aem). He then opened the floor to the experts on the subject.

Amendments to Senate Bill No. 275
1st Reading Copy

Requested by Senator Rick Laible

For the Senate Business and Labor Committee

Prepared by Eddye McClure
February 12, 2003 (7:32am)

1. Title, page 1, line 9.

Strike: "ON"

Insert: "WITHIN 3 DAYS OF"

2. Page 4, line 13.

Strike: "on"

Insert: "within 3 days of"

- END -

SENATE BUSINESS & INDUSTRY

Amendments to Senate Bill 275
First Reading Copy

COMMITTEE NO. 3
DATE 2/12/03
BILL NO. SB275

Amendments Requested by the
Department of Public Health and Human Services *(from Russ Cater)*
For the Senate Local Government Committee

1. Title, lines 12 through 14.

Following: "THAT"

Strike: remainder of line 12 through "PERSON" on line 14.

Insert: "MONIES PAID UNDER TITLE 53 TO PROVIDERS OF GOODS
AND SERVICES ARE NOT EXEMPT FROM LEVY OR OTHER LEGAL
PROCEEDINGS".

2. Page 7, line 25.

Following: "title"

Strike: "and in subsection (2)"

Following: "granted"

Insert: "to a needy person"

3. Page 7, lines 28 through 30.

Strike: lines 28 through 30 in their entirety

Following: line 30

Insert: "(2) Subsection (1) does not apply to a person or
entity receiving money under this title who is entitled
to the money because they provided goods or services to
a needy person."

-End-

Prepared by:

Department of Public Health and Human Services
Russell E. Cater
Chief Legal Counsel
406-444-5626

Explanation: Amendments are meant to more clearly state
that monies paid to needy persons under MCA, Title 53 are
exempt from levy but not the monies paid to providers of
services, e.g. physicians, day care centers, etc.

SENATE BILL NO. 275

INTRODUCED BY R. LAIBLE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS FOR THE COLLECTION OF JUDGMENTS AND FINES; REQUIRING THAT COLLECTION FEES BE ADDED TO THE AMOUNT OF THE JUDGMENT OR FINE BEING COLLECTED; INCREASING THE LENGTH OF A JUDGMENT LIEN FILED IN ANOTHER COUNTY AND A JUDGMENT LIEN RENDERED IN FEDERAL COURT FROM 6 YEARS TO 10 YEARS; REQUIRING EARNINGS WITHHELD FROM A JUDGMENT DEBTOR TO BE REMITTED TO THE SHERIFF OR LEVYING OFFICER ON THE DAY THE EARNINGS ARE WITHHELD; PROVIDING THAT FEES ASSESSED IN A MUNICIPAL COURT MAY NOT EXCEED THOSE FEES ASSESSED BY A JUSTICE'S COURT; EXPANDING THE LIABILITY FOR ISSUING A BAD CHECK TO INCLUDE A CONVERTED CHECK AND AN ELECTRONIC FUND TRANSFER; PROVIDING THAT ~~GRANTS OF ASSISTANCE ARE SUBJECT TO LEVY OR OTHER LEGAL PROCEEDINGS WITH RESPECT TO OBLIGATIONS TO PROVIDERS OF SERVICES RENDERED TO OR FOR A NEEDY PERSON~~ MONIES PAID UNDER TITLE 53 TO PROVIDERS OF GOODS AND SERVICES ARE NOT EXEMPT FROM LEVY OR OTHER LEGAL PROCEEDINGS; AND AMENDING SECTIONS 3-10-601, 25-9-302, 25-9-303, 25-13-402, 25-30-102, 27-1-717, 46-17-303, 46-19-102, AND 53-2-607, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-10-601, MCA, is amended to read:

"3-10-601. Collection and disposition of fines, penalties, forfeitures, and fees. (1) Each justice's court shall collect the fees prescribed by law for justices' courts and shall pay them into the county treasury of the county in which the justice of the peace holds office, on or before the 10th day of each month, to be credited to the general fund of the county.

(2) Except as provided in subsection (4), all fines, penalties, and forfeitures that are required to be imposed, collected, or paid in a justice's court must, for each calendar month, be paid by the justice's court on or before the 5th day of the following month to the treasurer of the county in which the justice's court is situated,

(c) The city court, after deducting the charges provided for in 46-18-236, may pay the private person or entity a reasonable fee for collecting the judgment. The fee incurred by the court must be added to the judgment amount.

(3) If the judgment is for a fine alone, execution may issue on the judgment for any unpaid interest accrued on the judgment, costs, and fees in collecting the fine as on a judgment in a civil case."

Section 8. Section 46-19-102, MCA, is amended to read:

"46-19-102. Execution of fine judgment. (1) If the judgment is for a fine alone, execution may issue on the judgment, any unpaid interest accrued on the judgment, and costs and fees incurred in collecting the judgment as on a judgment in a civil case.

(2) If the judgment is for a fine and imprisonment until the fine is paid, the defendant must be committed to the custody of the proper officer and detained and allowed a credit for each day of incarceration as provided in 46-18-403.

(3) (a) The court may contract with a private person or entity for the collection of any judgment.

(b) In the event that a private person or entity is retained to collect a judgment, the court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute suit or other lawful collection procedures and postjudgment remedies in the private person's or entity's own name.

(c) The court, after deducting the charges provided for in 46-18-236, may pay the private person or entity a reasonable fee for collecting the judgment. The fee incurred by the court must be added to the judgment amount."

Section 9. Section 53-2-607, MCA, is amended to read:

"53-2-607. Assistance not assignable or subject to legal process -- exceptions. (1) Except as otherwise provided in this title ~~and in subsection (2)~~, assistance granted to a needy person under this title is not transferable or assignable at law or in equity and none of the money paid or payable under this title is subject to execution, levy, attachment, garnishment, or other legal process or to the operation of any bankruptcy or insolvency law.

~~(2) Money paid or payable under this title is subject to execution, levy, attachment, garnishment, or other legal process to pay obligations of a person or entity that is receiving the money or is entitled to the money for services rendered for or to a needy person."~~

(2) Subsection (1) does not apply to a person or entity receiving money under this title who is entitled

to the money because they provided goods or services to a needy person."

11 ✓

- END -

**MONTANA SENATE
2003 LEGISLATURE
BUSINESS & LABOR COMMITTEE
ATTENDANCE**

DATE: *February 12, 2003*

NAME	PRESENT	EXCUSED	ABSENT
SENATOR DALE MAHLUM, CHAIR	✓		
SENATOR MIKE SPRAGUE, VICE CHAIR	✓		
SENATOR SHERM ANDERSON	✓		
SENATOR VICKI COCCHIARELLA	✓		
SENATOR KELLY GEBHARDT	✓		
SENATOR BOB KEENAN		✓	
SENATOR SAM KITZENBERG	✓	✓	✓
SENATOR KEN HANSEN	✓		
SENATOR GLENN ROUSH	✓		
SENATOR DON RYAN	✓		
SENATOR CAROLYN SQUIRES	✓		
SENATOR FRED THOMAS		✓	

DATE February 12, 2003 Wednesday

SENATE COMMITTEE ON Business and Labor

BILLS BEING HEARD TODAY: SB275, SB282, SB306

Ex. Action SB198, SB254, SB270, SB334

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Al Smith	443-3124	MTLA	SB282	X	
Jeff Koch MCA	721-4454	MCA	SB275	X	
Maake Moore	721-4454	MCA	SB275	X	
Karen Guffey	225-3329	Self	SB282	X	
Dor Judge	442-2968	Teamsters Local 190	SB282	X	
Greg Unkles	20230	State Farm Ins Co	SB275	X	
Rick Pyler	442-7830	Self Self	SB282	X	
Jerry Driscoll	442-1708	AFL-CIO	282	X	
Kelly Paulson	251-4955	MCA	SB275	X	
Jerry Kack	444-1555	Dept. of Labor	SB282		
Kevin Mosier	495-7221	MCA	SB275	X	
GENE FENNERSON	—	PLC	SB282	X	
RICHARD MARTIN	954-5803	MTLA	SB282	X	

Info

Riley Johnson 445-3797 NFFB SB282 X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE February 12, 2003

SENATE COMMITTEE ON Business and Labor

BILLS BEING HEARD TODAY: SB 275, SB 282, SB 306

Ex. Action SB 198, SB 254, SB 270, SB 334

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Amber Stewart	439-3658		SB 282	X	
ROBERT PAVLOVICH	782-4507	FEW-233	SB 282	X	
MARK CADWALLADER	444-0280	Dept. Labor & Industry	SB 306		
Russell CATER	444-5626	Dept. Public Health & HS	SB 275	information	
Barry Shum	442-6640	MMCA	SB 282		X
Bob Worthington	443-0907	MMCA	SB 282		X
George Wood	446-5498	MT. Self Insurance	SB 282		X
Nancy Butler	444-7725	Int. State Fund	SB 282		
JAMES RANDY	251-7288	The Univ. of Montana	SB 306	X	
WEBB BROWN	2-2405	MONTANA CHAMBER	SB 282		X
Bill Stevens	9-6374	AFDA			X
KISS HART		DOR	SB 275		
Linda Selberg	4-1828	DPHHS	275		

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VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN DALE MAHLUM**, on February 18, 2003 at 9 A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Dale Mahlum, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Sherm Anderson (R)
Sen. Vicki Cocchiarella (D)
Sen. Kelly Gebhardt (R)
Sen. Ken (Kim) Hansen (D)
Sen. Sam Kitzenberg (R)
Sen. Glenn Roush (D)
Sen. Don Ryan (D)
Sen. Carolyn Squires (D)

Members Excused: Sen. Bob Keenan (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Sherrie Handel, Committee Secretary
Eddye McClure, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 354, 2/7/2003; SB 349, 2/7/2003
Executive Action: SB 306; SB 275; SB 270; SB 254

{Tape: 1; Side: A}

SEN. ANDERSON hoped everyone would come away from here understanding the principals that are involved to a greater extent. As you can tell, he said, this is a hot topic. Consumers are upset and rightfully so. Oftentimes, it is a misunderstanding that causes consumers to get upset. He told of how he came to sponsor the bill and of the lengthy discussions he had with the insurance groups before he would sponsor it. Montana law today allows insurance companies to use credit reports. This piece of legislation was designed to restrict the use of that credit information and to try and protect the consumer. SEN. ANDERSON emphasized credit scoring is just one tool insurance companies use to determine risk. He also said that consumers who take risks with their credit also take risks in other areas of their life, such as driving. He recommended a DO PASS to the committee.

EXECUTIVE ACTION ON SB 306

Motion/Vote: SEN. COCCHIARELLA moved that SB 306 DO PASS AS AMENDED, EXHIBIT(bus36a05) (SB030601.aem). Motion carried 7-0.

EXECUTIVE ACTION ON SB 275

Motion: SEN. COCCHIARELLA moved SB 275 WITH SEGREGATING #4 AND #9 FROM THE AMENDMENT. Vote: Motion carried 8-0.

Motion: SEN. ANDERSON moved that SB 275 DO PASS AS AMENDED, EXHIBIT(bus36a06) (SB027501.aem). Vote: Motion carried 7-4 with COCCHIARELLA, KITZENBERG, HANSEN and SQUIRES voting no.

EXECUTIVE ACTION ON SB 270

Motion/Vote: SEN. ROUSH moved that SB 270 DO PASS AS AMENDED, EXHIBIT(bus36a07) (SB027001.aem). Motion carried 9-3 with COCCHIARELLA, GEBHARDT and SPRAGUE voting no.

EXECUTIVE ACTION ON SB 254

Motion/Vote: SEN. COCCHIARELLA moved that SB 254 DO PASS AS AMENDED, EXHIBIT(bus36a08) (SB025401.aem). Motion carried 8-0.

Amendments to Senate Bill No. 275
1st Reading Copy

Requested by Senator Rick Laible

For the Senate Business and Labor Committee

Prepared by Eddy McClure
February 18, 2003 (3:36pm)

1. Title, page 1, line 9.

Strike: 'ON'

Insert: 'WITHIN 5 DAYS OF'

2. Title, page 1, line 12 through line 14.

Following: "THAT"

Strike: remainder of line 12 through "PERSON" on line 14

Insert: "MONEY PAID UNDER TITLE 53 TO PROVIDERS OF GOODS AND
SERVICES IS EXEMPT FROM LEVY OR OTHER LEGAL PROCEEDINGS"

3. Page 4, line 13.

Strike: "on"

Insert: "within 5 days of"

4. Page 7, line 25.

Following: "title"

Strike: "and in subsection (2)"

Following: "granted"

Insert: "to a needy person"

5. Page 7, line 28.

Following: "title"

Insert: "to a person or entity who is not a needy person but who
receives the money for providing goods or services to a
needy person"

6. Page 7, lines 29 and 30.

Following: "process" on line 29

Strike: remainder of line 29 through "person" on line 30

**MONTANA SENATE
2003 LEGISLATURE
BUSINESS & LABOR COMMITTEE
ATTENDANCE**

DATE: *February 18, 2003*

NAME	PRESENT	EXCUSED	ABSENT
SENATOR DALE MAHLUM, CHAIR	✓		
SENATOR MIKE SPRAGUE, VICE CHAIR	✓		
SENATOR SHERM ANDERSON	✓		
SENATOR VICKI COCCHIARELLA	✓		
SENATOR KELLY GEBHARDT	✓		
SENATOR BOB KEENAN		✓	
SENATOR SAM KITZENBERG	✓		
SENATOR KEN HANSEN	✓		
SENATOR GLENN ROUSH	✓		
SENATOR DON RYAN	✓		
SENATOR CAROLYN SQUIRES	✓		
SENATOR FRED THOMAS		✓	

**MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE**

DATE 2-18-03 BILL NO. SB275

MOTION:

Sen. Sherm Anderson) moved DO PASS as amended. Sen. Vicki Cocchiarella) moved to segregate) #4 and #9 from the amendment.

[illegible]

**MONTANA SENATE
2003 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE**

DATE 2-18-03 BILL NO. SB275

MOTION:

Sen. Sherm Anderson moved DO PASS
as amended (no #4 or #9).

[illegible]



SENATE STANDING COMMITTEE REPORT

February 18, 2003

Page 1 of 2

Mr. President:

We, your committee on **Business and Labor** recommend that **Senate Bill 275** (first reading copy -- white) do pass as amended.

Signed: _____

D. Mahlum
Senator Dale Mahlum, Chair

And, that such amendments read:

1. Title, page 1, line 9.

Strike: "ON"

Insert: "WITHIN 5 DAYS OF"

2. Title, page 1, line 12 through line 14.

Following: "THAT"

Strike: remainder of line 12 through "PERSON" on line 14

Insert: "MONEY PAID UNDER TITLE 53 TO PROVIDERS OF GOODS AND SERVICES IS EXEMPT FROM LEVY OR OTHER LEGAL PROCEEDINGS"

3. Page 4, line 13.

Strike: "on"

Insert: "within 5 days of"

4. Page 7, line 25.

Following: "title"

Strike: "and in subsection (2)"

Following: "granted"

Insert: "to a needy person"

5. Page 7, line 28.

Following: "title"

Insert: "to a person or entity who is not a needy person but who receives the money for providing goods or services to a needy person"

Committee Vote:

Yes 7, No 4.

361621SC.sjo

6. Page 7, lines 29 and 30.

Following: "process" on line 29

Strike: remainder of line 29 through "person" on line 30

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on March 19, 2003 at
8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date (s) Posted SB 254 (3/12/03); SB 249
(3/12/03); SB 275 (3/12/03);
SB 292 (3/12/03)

HEARING ON SB 275

Sponsor: SEN. RICK LAIBLE, SD 30, Victor

Opening Statement by Sponsor:

SEN. LAIBLE said this bill revised laws for the collection of judgments and fines. It required that collection fees be added to the amount of the judgment or fine being collected. It increases the length of a judgment lien filed in another county and a judgment lien rendered in Federal Court from six years to ten years. It required earnings withheld from a judgment debtor to be remitted to the sheriff or levying officer within five days of the day the earnings are withheld. It also provided that fees assessed in a municipal court may not exceed those fees assessed by a justice's court. He also explained the changes in the bill.
{Tape: 1; Side: A; Approx. Time Counter: 421 - 500}

Proponents' Testimony:

Michael Moore, Attorney at Law, Montana Collectors Association, said he supported this bill and also advised the Committee he would be available for questions.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 15}

Tom England, Sitron Services, said they were an accounts receivable management business and supported this bill.

{Tape: 1; Side: B; Approx. Time Counter: 15 - 23}

Bob Pyfer, Senior Vice President, Credit Union Network, said they supported this bill.

{Tape: 1; Side: B; Approx. Time Counter: 23 - 28}

Opponents' Testimony: None

Informational Testimony:

Russ Cater, Chief Legal Counsel, Department of Public Health & Human Services, said he would be available for questions.

Richard Rowe, Levying Officer for the State of Montana, said he would be available for questions.

Questions from Committee Members and Responses:

REP. MENDENHALL asked **SEN. LAIBLE** about his reference to previous legislation which standardized the lien judgments for ten years, and this section of the new bill where areas are not changed.

{Tape: 1; Side: B; Approx. Time Counter: 66 - 116}

REP. BERGREN asked **SEN. LAIBLE** about his remark concerning collections toward Medicaid. **SEN. LAIBLE** said if a doctor has his car repaired and he does not pay for the repair, a judgment is filed against him, because he is a doctor who services needy people, his wages may still be garnished for payment.

{Tape: 1; Side: B; Approx. Time Counter: 116 - 131}

REP. GALLIK asked Mr. Moore if a final payment to a Justice Court for fees will be negotiated. **Mr. Moore** said "No."

{Tape: 1; Side: B; Approx. Time Counter: 131 - 196}

REP. KEANE asked Mr. Moore about the fee range for collection agencies or what percentage they receive. **Mr. Moore** said the agencies receive between 25% and 30% for collection fees. **REP. KEANE** also asked if an amendment could be written to limit the amount of percentage. **Mr. Moore** said "No."

{Tape: 1; Side: B; Approx. Time Counter: 196 - 270}

Closing by Sponsor:

The sponsor closed.

{Tape: 1; Side: B; Approx. Time Counter: 444 - 500}

HEARING ON SB 292

Sponsor: **SEN. VICKI COCCHIARELLA, SD 32, Missoula**

Opening Statement by Sponsor:

SEN. COCCHIARELLA said this bill exempts, from the Montana Residential Landlord and Tenant Act of 1977, housing provided by the Montana University System and other post secondary education institutions.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 50}

Proponents' Testimony:

Matthew Fisher, Student Affairs, University of Montana, said they operate the residence halls on campus. For them to operate effectively, non-students in the housing facilities would create

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 3-19-03

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. JOE MCKENNEY, CHAIR.	✓		
REP. DON STEINBEISSER, VICE CHAIR MAJORITY	✓		
REP. JIM KEANE, VICE CHAIR MINORITY	✓		
REP. BOB BERGREN	✓		
REP. ROD BITNEY	✓		
REP. SYLVIA BOOKOUT- REINICKE	✓		
REP. NANCY RICE FRITZ	✓		
REP. DAVE GALLIK	✓		
REP. KATHLEEN GALVIN- HALCRO	✓		
REP. RAY HAWK	✓		
REP. BOB LAWSON	✓		
REP. RICK MAEDJE	✓		
REP. GARY MATTHEWS	✓		
REP. SCOTT MENDENHALL	✓		
REP. PENNY MORGAN	✓		
REP. ALLEN ROME	✓		
REP. SANDY WEISS	✓		
REP. BILL WILSON	✓		

Montana House of Representatives Visitors Register

BUSINESS & LABOR COMMITTEE

Date _____

Bill No. HB^{SB 275} Sponsor(s) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **CHAIRMAN JOE MCKENNEY**, on March 26, 2003 at
8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Joe McKenney, Chairman (R)
Rep. Jim Keane, Vice Chairman (D)
Rep. Donald Steinbeisser, Vice Chairman (R)
Rep. Bob Bergren (D)
Rep. Rod Bitney (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Nancy Fritz (D)
Rep. Dave Gallik (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Ray Hawk (R)
Rep. Bob Lawson (R)
Rep. Rick Maedje (R)
Rep. Gary Matthews (D)
Rep. Scott Mendenhall (R)
Rep. Penny Morgan (R)
Rep. Allen Rome (R)
Rep. Sandy Weiss (D)
Rep. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Alberta Strachan, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 46 (3/14/03); SB 415 (3/14/03);
SB 270 (3/14/03); SB 344 (3/14/03)

Executive Action: SB 315 Be Concurred In; SB 306 Be
Concurred In; SB 344 Be Concurred
In As Amended; SB 275 Be Concurred
In As Amended.

HEARING ON SB 415

Sponsor: SEN. FRED THOMAS, SD 31, Stevensville

Opening Statement by Sponsor:

SEN. THOMAS said this bill revises the qualifications for a golf course beer and wine license. It changes the requirements for the number of holes, course length and proximity to a municipality.

{Tape: 1; Side: A; Approx. Time Counter: 106 - 129}

Proponents' Testimony:

Greg Barkus, representing himself, said the length of time the license would be used is for five months per year, dawn until dusk. His golf course is Northern Pines and it falls outside the one-mile range. An amendment has been considered to change the range requirements. As the bill currently stands, if a non-profit organization would come in across the road, they are less than three miles in range. They could have a beer and wine license but Northern Pines could not. It is not fair.

{Tape: 1; Side: A; Approx. Time Counter: 106 - 129}

Tom Clary, General Manager, Northern Pines Golf Course, said they agree with Mr. Barkus's testimony. They would like to offer their guests, like every other golf course in the Flathead Valley, an opportunity to have a beverage after playing golf.

{Tape: 1; Side: A; Approx. Time Counter: 129 - 138}

Mark Staples, Montana Tavern Association, said they had tried working with the licensing system to not totally disenfranchise the investments and still accommodate everyone. The municipality does not have the funding to run a golf course. The citizens then get together and form a nonprofit organization and establish a golf course. This is for a profit developed investors golf course. The homesites situated around some golf courses are more than they would need to pay for a license.

{Tape: 1; Side: A; Approx. Time Counter: 138 - 220}

Mark Baker, Attorney at Law, Northern Pines Golf Course, said this issue began a couple of years ago. A golf course that is outside the city limits could not get a beer and wine license

of the companies and the availability of their products in the market they will support the reduction to the 1.5% if the sunset provision is included.

{Tape: 3; Side: A; Approx. Time Counter: 116 - 130}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MENDENHALL asked SEN. LAIBLE his reason for not putting in the index rate instead of 1.5%. SEN. LAIBLE said the Association did not have the language for that index yet and this will give the Association two years to formulate the indexing formula, it can then be approved and put into the legislation.

{Tape: 3; Side: A; Approx. Time Counter: 130 - 143}

Mr. Campbell said if a termination date was put into the language, there will be two sections in the law. One of the sections is going to be in the law with the 3% figure. He then asked if they just wanted to pass this legislation and come back in two years and change the figure.

{Tape: 3; Side: A; Approx. Time Counter: 143 - 187}

Closing by Sponsor:

The Sponsor closed.

{Tape: 3; Side: A; Approx. Time Counter: 187 - 200}

EXECUTIVE ACTION ON SB 344

{Tape: 3; Side: A; Approx. Time Counter: 200 - 500}

Motion: REP. FRITZ moved that SB 344 BE CONCURRED IN.

Motion/Vote: REP. GALLIK moved that SB 344 BE AMENDED. Motion carried 18-0. (Exhibit 6)

Motion/Vote: REP. GALLIK moved that SB 344 BE CONCURRED IN AS AMENDED. Motion carried 18-0.

EXECUTIVE ACTION ON SB 275

Motion: REP. BITNEY moved that SB 275 BE CONCURRED IN.

Motion/Vote: REP. MORGAN moved that SB 275 BE AMENDED. Motion carried 18-0.

EXHIBIT(buh64a07)

Motion/Vote: REP. MORGAN moved that SB 275 BE CONCURRED IN AS AMENDED. Motion carried 14-4 with REPS. GALLIK, GALVIN-HALCRO, WILSON, KEANE voting no.

HOUSE OF REPRESENTATIVES
Roll Call
BUSINESS AND LABOR COMMITTEE

DATE 3-26-03

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. JOE McKENNEY, CHAIR.	✓		
REP. DON STEINBEISSER, VICE CHAIR MAJORITY	✓		
REP. JIM KEANE, VICE CHAIR MINORITY	✓		
REP. BOB BERGREN	✓		
REP. ROD BITNEY	✓		
REP. SYLVIA BOOKOUT- REINICKE	✓		
REP. NANCY RICE FRITZ	✓		
REP. DAVE GALLIK	✓		
REP. KATHLEEN GALVIN- HALCRO	✓		
REP. RAY HAWK	✓		
REP. BOB LAWSON	✓		
REP. RICK MAEDJE	✓		
REP. GARY MATTHEWS	✓		
REP. SCOTT MENDENHALL	✓		
REP. PENNY MORGAN	✓		
REP. ALLEN ROME	✓		
REP. SANDY WEISS	✓		
REP. BILL WILSON	✓		



HOUSE STANDING COMMITTEE REPORT

March 26, 2003

Page 1 of 1

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **Senate Bill 275** (third reading copy -- blue) be concurred in as amended.

Signed: _____

Representative Joe McKone, Chair

To be carried by Representative Larry Jent

And, that such amendments read:

1. Title, line 15.

Following: "IS"

Insert: "NOT"

- END -

Committee Vote:

Yes 14, No 4.

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3-26-03